

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI  
WESTERN DIVISION

E.C., J.L., J.C., T.G., B.G., and A.G. by	)	
Next Friend, Jill Katz, et al.,	)	
	)	
Plaintiffs,	)	
	)	
v.	)	No. 05-0726-CV-W-SOW
	)	
MATT BLUNT, in his official capacity	)	
as Governor of the State of Missouri, et al.,	)	
	)	
Defendants.	)	

ORDER

Before the Court are defendant Blunt's Motion for Judgment on the Pleadings (Doc. #59), defendant Blunt's Suggestions in Support, plaintiffs' Suggestions in Opposition, and defendant Blunt's Reply. For the reasons stated below, defendant Blunt's motion is granted.

I. Background

Defendant Blunt moves for judgment on the pleadings pursuant to Federal Rule of Civil Procedure 12( c). Defendant Blunt argues that in his official capacity as Governor of the State of Missouri he retains his Eleventh Amendment immunity from suit and has absolute legislative immunity.

Plaintiffs' Amended Complaint alleges that Governor Blunt is sued in his official capacity, that he is constitutionally responsible for ensuring that all state agencies comply with the law, and that he signed Senate Bill 539.

II. Discussion

The Children's Division of the Missouri Department of Social Services is the agency of the State of Missouri that is responsible for the administration of Missouri's adoption assistance

program. *See* Mo. Rev. Stat. §453.073.1. Accordingly, defendant Matt Blunt argues that he retains his Eleventh Amendment immunity from suit and is not a proper party to this action. Women’s Emergency Network v. Bush, 323 F.3d 937, 949-50 (11<sup>th</sup> Cir. 2003); Waste Management Holdings, Inc. v. Gilmore, 252 F.3d 316, 331 (4<sup>th</sup> Cir. 2001)(governor lacks specific duty to enforce challenged statute, public endorsement of statutes not enough).

The allegations set forth in plaintiffs’ Amended Complaint do not overcome Governor Blunt’s Eleventh Amendment immunity. Rather, as alleged in plaintiffs’ Amended Complaint, Gary Sherman, in his official capacity as Director of the Missouri Department of Social Services is directly responsible for managing the department and for “supervising the adoption assistance programs” in Missouri. Defendant Sherman is the proper party defendant to plaintiffs’ allegations. In addition, a governor cannot be sued for signing a bill into law due to his absolute legislative immunity. Women’s Emergency Network v. Bush, 323 F.3d at 950.

The fact that defendant Blunt was briefed about the status of the implementation of Senate Bill 539 or briefed on the status of this lawsuit does not support plaintiffs’ assertion that the Governor was personally involved in the implementation or enforcement of Senate Bill 539. The Children’s Division of the Department of Social Services remains the agency responsible for implementing and enforcing Missouri’s adoption assistance program.

### III. Conclusion

Accordingly, it is hereby

ORDERED that defendant Blunt’s Motion for Judgment on the Pleadings (Doc. #59) is granted and defendant Blunt is dismissed as a defendant in the above-captioned case with

prejudice.

/s/Scott O. Wright  
SCOTT O. WRIGHT  
Senior United States District Judge

Dated: 1-9-2006